

# The Chippewa Cree Tribe of the Rocky Boy's Reservation

Phone: (406) 395-4478 or 4210 - Finance Office  
(406) 395-4282 or 4321 - Business Committee

31 Agency Square  
Box Elder, Montana 59521

January 12, 2018

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W., Room TW-A325  
Washington, D.C., 20554  
Via: ECFS

**RE: Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79 (includes Notice of Proposed Rulemaking)**

**Streamlining Deployment of Small Cell Infrastructure by Improving Wireless Facilities Siting Policies, WT Docket No. 16-421**

**Public Notice of Draft Program Comment Addressing Collocation on "Twilight Towers", WT Docket No. 17-79**

Dear Ms. Dortch,

In response to WT Docket 17-79, 16-421, the Chippewa Cree Tribe of the Rocky Boy's Indian Reservation has reviewed and considered the implications of and potential Commission actions and disagrees with the assessment that the Federal Communications Commission (FCC) has acted in good faith in engaging and consulting with the Tribal Nations on the matter of collocations on the "Twilight Towers" that have not been the subject of a Section 106 review as required by the National Historic Preservation Act (NHPA).

## **COMMENTS**

In the Program Comments, the FCC asserts that it has held a variety of meetings with the Tribal Nations to discuss the Twilight Towers". In these purported meetings between Indian Tribes and the FCC, "Twilight Towers" were only generally discussed and the location of such towers has never been revealed to Indian Tribes. In point of fact, industry has refused to share information with either the Indian Tribes or the FCC in regards to "Twilight Towers".

When the FCC met with Indian Tribes in regards to consultation on June 8, 2017 Rosebud Sioux Tribe, the annual meeting National Congress of American Indians on June 14, 2017, and in Washington D.C. on October 4, 2017 the Chippewa Cree Tribe had representative at each of these meetings. During these meetings the "Twilight

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Towers” were not discussed nor were Indian Tribes consulted on the proposed Program Comments. In regard to the October 4, 2017 meeting, FCC staff was preparing review drafts of the “Twilight Towers” order. A representative of the Tribe asked the Chairman for a status on next steps for this docket. The Chairman responded that he did not know the answer to that question. Also, at that meeting, FCC refused to answer any questions in regards to the “Twilight Towers”.

For the past several years, the Chippewa Cree Tribe has been requesting the Industry and FCC for the site locations of the “Twilight Towers” so that we may collaborate on a process that respects the federal, state, and tribal cultural preservation laws. The Tribe has continued to get the same response from the FCC that they do not know where the “Twilight Towers” are located and to address any questions in regards to the towers. This is an inadequate response and issuance of the Program Comments without thoroughly consulting Indian Tribes on the “Twilight Towers” is in complete disregards to the Tribal Consultation Policy and long-standing working relationship that Indian Tribes have forged with the FCC.

The Chippewa Cree Tribe does not know where the “Twilight Towers” are located and thus have not filed complaints. Indian Tribes have made repeated requests for the locations of said towers, but have been rebuffed by FCC with the statement that they either do not know where these towers are located or cannot say. The reluctance of FCC to work with Indian Tribes and share information on the locations of “Twilight Towers” and non-compliant towers has been the root of the problem. Indian Tribes should be allowed to review all non-compliant towers, including “Twilight Towers”, for impacts to historic and cultural properties. The FCC could implement an option in Tower Communication Notification System (TCNS) to allow for Indian Tribes to review “Twilight Towers”. After thorough historic preservation review, these towers could be considered approved and eligible for collocation.

Asserting that Indian Tribes could not identify adverse effects from 12-year old towers is not the fault of Indian Tribes. It is the FCC’s failure to notify the Indian Tribes where the towers are located and force the tower owners to provide any type of useful information as to the location of the “Twilight Towers”.

The FCC, the National Conference of State Historic Preservation Officer and the Advisory Council on Historic Preservation executed the First Amendment to the Nationwide Programmatic Agreement (NPA) for the Collocation of Wire Antennas in August 2016, which provides for new measures to manage the Section 106 consultation process to promote small cell deployment for licensees and tower companies. The Chippewa Cree Tribe provided comments at that time emphasizing consultation should occur prior to decisions that significantly impact Indian Tribes. It is apparent the industry’s comments continue to ask the FCC to narrow the



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interpretation of definition of structures and criteria associated with the NPA and provide arguments and legal interpretations of the National Historic Preservation Act. We strongly encourage the FCC to ensure compliance and enforcement for the Section 106 reviews. The FCC should determine what is a reasonable process to address the existing structures in question.

## SUMMARY

The Chippewa Cree Tribe asserts that they have not been properly consulted on the "Twilight Towers" and the Program Comments are not proper until our Tribe is given the opportunity to be heard in regards to "Twilight Towers" that are located within out ancestral homelands.

Sincerely,



Harlan Baker  
Chairman, Chippewa Cree Tribe

CC: Bambi Kraus, President, National Association of Tribal Historic Preservation Officers  
Jonathan Windy Boy, Tribal Historic Preservation Officer, Chippewa Cree Cultural Resources Preservation Department;  
FCC Chairman Ajit Pai;  
FCC Commissioner Mignon Clyburn;  
FCC Commissioner Michael O'Reilly;  
FCC Commissioner Jessica Rosenworcel;  
FCC Commissioner Brendan Carr;  
Jeffrey Steinberg Deputy Chief Competition and Infrastructure Policy Division FCC;  
Jill Springer Acting Federal Preservation Officer Competition and Infrastructure Policy Division Wireless Telecommunications Bureau;  
Matthew Duchesne, Chief, Office of Native Affairs and Policy